

**BUCKNELL STEHLIK SATO & STUBNER, LLP**  
2003 Western Avenue, Suite 400  
Seattle, Washington 98121  
(206) 587-0144 • fax (206) 587-0277

ERWIN SINGH BRAICH,

No. CV7 0177C

Plaintiff,

VS.

STEVE MITTELSTAEDT, et al,

Defendant.

**DECLARATION OF BRIAN G. N.  
McLEAN IN SUPPORT OF  
MOTION TO DISMISS**

1. My name is Brian G. N. McLean. I am 61 years of age. I am familiar with all

matters stated herein and would so testify if called before the court.

2. I am a Canadian citizen and a resident of West Vancouver, British Columbia, Canada.

My personal law corporation is a partner in the law firm of McLean & Armstrong LLP. This law firm is located in West Vancouver, British Columbia, Canada.

3. On or about November 22, 1999 my law firm (then McLean Saba Armstrong) was retained by KPMG, Inc. as legal counsel in its capacity as Trustee of the Estate of Erwin Singh Braich. This was approved by the Inspectors of the Estate. Within my law firm I was the person responsible in relation to this engagement.

Declaration of Brian G. McLean - 1

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2           5. All the actions I have taken in representing KPMG, Inc. as Trustee in the Braich  
3 bankruptcy case, relating to the causes of action in Mr. Braich's complaint alleged against me and  
4 my law firm were within the scope of my firm's engagement. Such acts and conduct were taken in  
5 the furtherance of KPMG, Inc.'s responsibility as Trustee under the *Bankruptcy and Insolvency Act*  
6 including to secure compliance of the Bankrupt with the *Bankruptcy and Insolvency Act* and to  
7 ascertain, bring in, realize upon and distribute to creditors the assets of the Estate.  
8

6. Mr. Braich suggests that by acting as counsel for the Trustee in his bankruptcy my law firm was in a conflict of interest by reason of my representation of the Petitioning creditor. I do not consider by accepting the engagement my law firm was in a conflict of interest in relation to the matters in question. Counsel for the Petitioning creditor accepting an engagement of a Trustee in bankruptcy does not in itself present a conflict which prevents such engagement. Indeed in this jurisdiction it has been common practice for Trustees, with Inspectors' approval, to engage counsel for the Petitioning creditor as counsel for the Trustee. The Inspectors who approved my firm's engagement by KPMG as trustee in the Braich bankruptcy case were fully apprised of my representation of a Petitioning creditor at the time they approved the engagement.

7. To my knowledge, Mr. Braich has not sought leave from any court to bring this  
20 action against me or my law firm.

22 I declare under penalty of perjury that the foregoing is true and correct.

23 DATED this 13<sup>th</sup> day of May, 2007.

23 DATED this 15<sup>th</sup> day of May, 2007.

25 Brian G. McLean

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27  
28 Declaration of Brian G. McLean - 2

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